

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD WEDNESDAY, AUGUST 22, 2001
AT 7:00 P.M.

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LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
19925 TWENTY-THREE MILE ROAD
MACOMB, MICHIGAN 48042

PRESENT: JOHN D. BRENNAN, SUPERVISOR
NORMAN J. SNAY, CLERK
MARIE E. MALBURG, TREASURER
TRUSTEES: DINO F. BUCCI, JR.
JANET DUNN
KENNETH MEERSCHAERT, JR.
CHARLES OLIVER

ABSENT: None
(Additional attendance record on file with Clerk)

CALL MEETING TO ORDER

Supervisor BRENNAN called the meeting to order at 7:00 P.M.

1. ROLL CALL.

Clerk SNAY called roll. All present.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF AGENDA ITEMS (with any addendum's)

Additions:

- 18a. Ventimiglia vs Township of Macomb Zoning Board of Appeals
- 18b. Request to authorize Township Attorney to defend Michigan Tax Tribunal appeal for Farmer Jack Supermarkets.
- 18c. Request to authorize Township Attorney to defend Michigan Tax Tribunal appeal for Hall Road Commerce Center.
- 18d. Request for Subdivision Model Permits; English Gardens Estates; Northern Macomb Development, Petitioner.
- 18e. Request to authorize Township Attorney to defend Michigan Tax Tribunal appeal for Occidental Dev. Ltd.
- 24a. Easement Encroachment Agreement; 47653 Woodberry Est. Drive, Macomb, MI 48044, Unit 87 in the Woodberry Estates Condominiums.
- 24b. Easement Encroachment Agreement; 52001 Powderhorn Drive, Macomb, MI 48042, Lot 134 in the Deerwood Subdivision No. III.

Supervisors Comments:

- 32a. Request for FMLA (Family Medical Leave Act) request.

Executive Session:

- 37a. Thomas Maliszewski v Macomb Twp

Tabled:

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- 36. Grand Sakwa v Macomb Township
- 37. Land Acquisition

MOTION by OLIVER seconded by DUNN to approve agenda as amended.

MOTION carried.

4. APPROVAL OF BILLS.

MOTION by DUNN seconded by MALBURG to authorize payment of bills as submitted.

FOR THIS MOTION: DUNN, MALBURG, BUCCI, OLIVER, MEERSCHAERT, SNAY, BRENNAN.

OPPOSED: NONE

ABSENT: NONE

MOTION carried.

5. APPROVAL OF MEETING MINUTES.

MOTION by OLIVER seconded by MEERSCHAERT to approve the minutes of August 8, 2001 as presented.

Clerk SNAY introduced Ross Tuscan, a First Class Scout who was attending the meeting and working on his Citizenship Badge.

- 6. DEPARTMENT MONTHLY REPORTS
 - A. Macomb County Sheriffs Department.
 - B. Building Department
 - C. Fire Department
 - D. Water/Sewer Department
 - E. Parks and Recreation Department

MOTION by DUNN seconded by MALBURG to receive/file and approve the Department Monthly Reports as a consent agenda.

MOTION carried.

7. PUBLIC COMMENTS

None

PUBLIC HEARING:

- 8. Request to adopt Resolution No.2 Special Assessment District; Retention Basin; Winding Creek Subdivision.

Public Hearing commenced at 7:06 p.m.

Supervisor BRENNAN reviewed the resolution.

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Petitioner Present: Greg Schmidt of Pulte Land Development

Public Portion: None

Dave Lakin, of Spalding DeDecker & Assoc. stated that there was a slight error in the legal description that needs correction.

MOTION by MEERSCHAERT seconded by MALBUTG to close the Public Hearing at 7:07 p.m.

MOTION carried.

MOTION by DUNN seconded by OLIVEDR to adopt the Resolution No.2 to create the Special Assessment District; Retention Basin for Winding Creek Subdivision contingent upon the clarification of the legal description.

FOR THIS MOTION: DUNN, OLIVER, MEERSCHART, BUCCI, SNAY, MALBURG, BRENNAN.

OPPOSED: NONE

ABSENT: NONE

MOTION carried.

Winding Creek Subdivision

RESOLUTION NO. 2

Minutes of a regular meeting of the Township Board of the Township of Macomb, County of Macomb, Michigan, held in the Township Hall in said Township on August 22, 2001 at 7:00 o'clock p.m., Eastern Standard Time.

PRESENT: Members John D. Brennan, Norman J. Snay, Marie Malburg, Dino F. Bucci, Jr., Janet Dunn, Charles Oliver, Kenneth Meerschaert, Jr.

ABSENT: Members None

The following preamble and resolution were offered by Member DUNN and supported by Member OLIVER.

WHEREAS, the Macomb Township Board (the "Township") adopted a resolution on July 25th, 2001, establishing a Special Assessment District subject to a public hearing, for the purpose of maintaining and operating a detention/retention basin (sometimes previously referred to as a "retention basin" or "sedimentation basin") described in Exhibit "A" attached hereto (the "Basin"); and

WHEREAS, pursuant to Sections 192a(2) and 192a(5) of Act 288, P.A. 1967, as amended, (the "Act"), proper notice having been given, a hearing was held on August 22, 2001, on creation and maintaining the detention/retention basin, including weeds and other debris, by special assessment on the property benefited thereby. At such hearing, the establishment of the Special Assessment District and defraying the cost of operating and maintaining the detention/retention basin by special assessment was approved; and

WHEREAS, the Special Assessment District consists of proposed Lots 1 through 265, inclusive, Winding Creek Subdivision (the "Plat"), as approved by the township, located on a portion of the land described in Exhibit "B" attached thereto; and

WHEREAS, Lots 1 through 265, inclusive, within the Plat are benefited by the detention/retention basin; and

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WHEREAS, pursuant to Section 192a(3) of the Act allows the Township to, subject to approval at public hearing, determine the annual cost of the operation and maintenance of the detention/retention basin, determine the annual special assessment levy, prepare a special assessment roll, and direct the spread of the assessment levy on all property in the district.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE TOWNSHIP OF MACOMB, MACOMB COUNTY, MICHIGAN

1. That the Special Assessment District created by resolution on July 25, 2001 is confirmed. The boundaries of this Special Assessment District are more particularly described in Exhibit "B" attached to this Resolution and made a part hereof.
2. That the authority to defray the cost of operating and maintaining the detention/retention basin by special assessment on the property benefited thereby ads adopted by the Township Board by resolution on July 25, 2001, and approved at a public hearing on August 22, 2001, is confirmed.
3. That in the event the Township has or intends to expend funds for the maintenance and operation of said detention/retention basin, the Township shall prepare a special assessment roll, determine that annual cost of the operation and maintenance of the detention/retention basin establish an annual special assessment levy, and prepare a plan to spread the assessment levy of each lot within the Special Assessment District be equal to the annual cost of the operation and maintenance of the detention/retention basin multiplied by a fraction, the numerator of which if one (1) and the denominator of which is the total number of lots in the special assessment district.
4. That after the determination of the annual cost of the operation and maintenance of the detention/retention basin, the Township shall give notice of and hold a public hearing to approve such costs, the establishment of the annual special assessment levy and the plan to spread the annual special assessment.
5. That the Township Board be and hereby is authorized, empowered and directed to make, execute and deliver any and all instruments, papers and documents and to do and perform any and all acts and things which shall be or become necessary, proper convenient or desirable to carry out, put into effect, or make operative any and all matters and things authorized or permitted to be done in the hereinabove resolution.

AYES: Members DUNN, OLIVER, MEERSCHAERT, BUCCI, MALBURG, SNAY, BRENNAN.

NAYS: Members NONE

RESOLUTION DECLARED ADOPTED.

Norman J. Snay
Macomb Township Clerk

PLANNING COMMISSION:

9. Request for Variance to the Land Division Ordinance No. 17, Pinnacle Woods Subdivision; Located south of 23 Mile Road and 330 feet west of the Township Limits; Section 24; Landtec of Macomb, LLC, Petitioner. Permanent Parcel No. 08-24-226-015, 08-24-226-016, 08-24-226-005 (part of) 08-24-276-001 and 08-24-276-002.

Bernie Lynden, Planning Consultant, reviewed the variance and stated the recommendation of the Planning Commission to approve the variance to waive the stub street to the north.

Petitioner Present: Craig Duckwitz of AEW

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Public Portion: None

MOTION by DUNN seconded by OLIVER to grant the Variance to the Land Division Ordinance No.17 as recommended by the Planning Commission to waive the stub street to the north.

FOR THIS MOTION: DUNN, OLIVER, MEERSCHAERT, BUCCI, MALBURG, SNAY, BRENNAN.

OPPOSED: NONE

ABSENT: NONE

MOTION carried.

10. Tentative Preliminary Plat; Pinnacle Woods Subdivision; Located south of 23 Mile Road and 330 feet west of the Township Limits; Section 24 ; Landtec of Macomb, LLC, Petitioner. Permanent Parcel No. 08-24-226-015, 08-24-226-016, 08-24-226-005 (part of) 08-24-276-001 and 08-24-276-002.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the proposed subdivision and surrounding property. Mr. Lynden stated the recommendation of the Planning Commission to approve the request contingent upon the fulfilling of the standard and following conditions:

1. That a bond in the amount of \$12,400.00 be posted assuring the development of the landscape area.
2. Certain designation as required by the Land Division Ordinance be placed on the plat.
3. Receive waiver of the stub street.

Petitioner Present: Craig Duckwitz of AEW

Public Portion: None

MOTION by DUNN seconded by OLIVER to approve the Tentative Preliminary Plat for Pinnacle Woods Subdivision for the period of one (1) year (expiring August 22, 2002) contingent upon the fulfilling of the conditions submitted by the Planning Commission.

MOTION carried.

11. Tentative Preliminary Plat; Brook Run Subdivision; (90 lots); Located approximately 800 feet north of 22 Mile Road and approximately 500 feet east of Romeo Plank Road; Section 21; GTR Builders, Inc., Petitioner. Permanent Parcel No. 08-21-301-002.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the proposed subdivision and surrounding property. Mr. Lynden stated the recommendation of the Planning Commission to approve the plat for a period of one (1) year contingent upon the fulfilling of the standard conditions.

Petitioner Present: Bob Kirk

Public discussion was held regarding construction traffic through adjoining subdivisions.

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MOTION by OLIVER seconded by MALBURG to approve the Tentative Preliminary Plat for Brook Run Subdivision for the period of one (1) year to expire August 22, 2002 contingent upon the fulfilling of the conditions recommended by the Planning Commission.

MOTION carried.

12. Final Preliminary Plat; Wolverine Trace Subdivision; (89 lots); Located north of 25 Mile Road and approximately 420 feet east of Luchtman Road; Section 4; Tiamo, LLC, Petitioner. Permanent Parcel No. 08-04-300-002.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the proposed subdivision and surrounding property. Mr. Lynden stated the recommendation of the Planning Commission to approve the plat for a period of two (2) years contingent upon the fulfilling of the standard and following conditions:

1. That a bond in the amount of \$30,000.00 be posted assuring the development of the landscape area.
2. That the area along 23 Mile Road be a 8' wide asphalt pedestrian pathway rather than a side walk.

Petitioner Present: John Vesper of Tiamo, LLC.

Public Portion: None

MOTION by DUNN seconded by OLIVER to follow the recommendation of the Planning Commission and grant Final Preliminary Plat to Wolverine Trace Subdivision for a period of two (2) years to expire August 22, 2003, contingent upon posting of the landscape bond and the area along 23 Mile Road be 8' pedestrian pathway in lieu of 5' concrete sidewalk.

MOTION carried.

13. Final Preliminary Plat; Koss Farms Subdivision No.2; (96 lots); Located on the south side of 23 Mile Road and approximately 4300 feet west of Romeo Plank Road; Section 21. Classic Development, Petitioner. Permanent Parcel No. 08-21-200-017.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the proposed subdivision and surrounding property. Mr. Lynden stated the recommendation of the Planning Commission to approve the plat for a period of two (2) years contingent upon the fulfilling of the standard and following conditions:

1. That a bond in the amount of \$12,000.00 be posted assuring the development of the landscape area for Phase I.

Petitioner Present: Craig Duckwitz of AEW

Public Portion: None

MOTION by DUNN seconded by MALBURG to follow the recommendation of the Planning Commission and grant Final Preliminary Plat to Koss Farms Subdivision for a period of two (2)

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years to expire August 22, 2003 contingent upon fulfilling of the standard conditions and posting of the landscape bond for Phase I.

MOTION carried.

14. Final Preliminary Plat; Urban Meadows Subdivision; (76 lots); Located west of the G.T.W.R.R. and approximately 415 feet north of Hall Road. Section 36; A & H, Inc., Petitioner. Permanent Parcel No. 08-36-376-002.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the proposed subdivision and surrounding property. Mr. Lynden stated the recommendation of the Planning Commission to approve the plat subject to the Township Engineers review and recommendation to the Township Board for a period of two (2) years contingent upon the fulfilling of the standard and following conditions:

1. That a bond in the amount of \$30,000.00 be posted assuring the development of the landscape area.
2. That the plan note that sod will be installed in the landscape areas.
3. That the area of the plat designated as the landscape easement must contain the following statement of the plat: "The entire common area is subject to a private easement dedicated to the ownership association for landscaping".
4. That the petitioner and Township Engineers provide information to insure that the storm drainage system will not adversely impact the adjacent property owners.

Petitioner Present: Bill Thompson of Lehner & Associates

Dave Lakin, of Spalding DeDecker & Associates, stated that the plat had met all the criteria for drainage but suggested revisions needed to be made to the engineering plan after a meeting had been held on the site with local residents and County Agencies to further review the drainage system.

Numerous residents who reside on Fairchild Road stated their concern with current and possible increased flooding problems with the new development. Bill Thompson from Lehner & Associates reviewed the proposed drainage system with the board and residents. Residents also stated their concern regarding the storm drain location, maintenance of the proposed pump station and the capacity of the natural drain.

Larry Dloski, Township Attorney, informed the Board that a Final Preliminary Plat can be approved with conditions.

Board discussion was held regarding if construction were to begin now, where would water drain and the effect the additional volume would have on the current conditions of flooding on Fairchild.

MOTION by OLIVER and seconded by BUCCI to approve the Final Preliminary Plat for Urban Meadows Subdivision subject to the drainage system being relocated to North Avenue.

MOTION carried.

NEW BUSINESS:

15. Request to enter into Street Lighting Agreement; Country Meadows South Condominiums.

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Supervisor BRENNAN reviewed the request and stated the financial contribution of Country Meadows South Condominiums as submitted by Detroit Edison.

Public Portion: None

MOTION by MEERSCHAERT seconded by MALBURG to enter into the Street Lighting Agreement with Country Meadows South Condominiums and authorize the Supervisor and Clerk to sign the agreement.

**TOWNSHIP OF MACOMB
AND
COUNTRY MEADOWS SOUTH CONDOMINIUMS
AGREEMENT FOR STREET LIGHTING**

Minutes of a regular meeting of the Township Board of the Township of Macomb, County of Macomb, Michigan, held in the Township Hall is said Township on August 22, 2001 at 7:00 P.M., Eastern Daylight Savings Time.

PRESENT: John D. Brennan, Norman J. Snay, Marie E. Malburg, Dino F. Bucci, Jr., Charles Oliver, Janet Dunn, Kenneth Meerschaert, Jr.
ABSENT: None

The following preamble and resolution were offered by Member MEERSCHAERT and supported by Member MALBURG.

WHEREAS, the Country Meadows South Condominiums, desire to provide street lighting for the benefit of its co-owners; and

WHEREAS, the Country Meadows South Condominiums are administered by an association of co-owners; and

WHEREAS, the Detroit Edison Company will not contract with the Country Meadows South Condominiums Association to provide street lighting; and

WHEREAS, the Detroit Edison Company's policy to contract with the municipality for street lighting installed by the Detroit Edison Company in the municipality; and

WHEREAS, the Country Meadows South Condominium Association has requested that Macomb Township enter into a contract with Detroit Edison to provide street lighting at the Country Meadows South Condominiums; and

WHEREAS, the Township Board of Trustees has approved a contract with Detroit Edison for the benefit of the Country Meadows South Condominiums upon certain terms and conditions set forth herein; and

WHEREAS, in order to provide street lighting and reimburse Macomb Township for the costs the Township incur as a result of contracting with the Detroit Edison Company to provide street lighting on behalf of the Country Meadows South Condominiums, the Country Meadows South Condominium Association agrees to enter into this agreement; and

WHEREAS, the Country Meadows South Condominium Association will reimburse Macomb Township its costs incurred to Detroit Edison for the construction costs, including labor, materials, overhead, and annual lamp charges that benefit the Country Meadows South Condominiums Condominiums; and

WHEREAS, the Country Meadows South Condominium Association represents and warrants that the association has the power and authority to contract with Macomb Township for the purpose of reimbursing Macomb Township costs incurred by the Township to the Detroit Edison Company on behalf of the Country Meadows South Condominiums; and

WHEREAS, the Country Meadows South Condominium Association has requested the Detroit Edison Company to furnish, install, operate and maintain street lighting facilities as set forth in the Detroit Edison Company proposal No. 360749-21/23 dated July 18, 2001, which is made a part of this agreement;

NOW THEREFORE,

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1. Macomb Township shall execute an Agreement for Municipal Street Lighting with the Detroit Edison Company for the benefit of the Country Meadows South Condominiums, the purpose of which will be to furnish, install, operate and maintain street lighting equipment and facilities in accordance with proposal No. 360749-21/23 dated July 18, 2001, attachment A.
2. All costs associated with providing street lighting to the Country Meadows South Condominiums and which costs are paid by Macomb Township directly to the Detroit Edison Company, shall be reimbursed by the Country Meadows South Condominiums, upon demand by Macomb Township.
3. The Country Meadows South Condominiums understands that the costs to operate and maintain street lighting facilities set forth in proposal No. 360749-21/23 may increase from year to year.
4. The Country Meadows South Condominium Association on behalf of the Country Meadows South Condominiums agrees to reimburse Macomb Township any increase over the initial contract which may be incurred by Macomb Township to the Detroit Edison Company to provide street lighting to the Country Meadows South Condominiums.
5. The Country Meadows South Condominium Association represents and warrants that the Association is vested with authority to enter into this agreement and covenants on behalf of its co-owners to reimburse Macomb Township for any and all payments made by the Township to Detroit Edison Company on behalf of Country Meadows South Condominiums.
6. In the event that the Country Meadows South Condominiums fail and/or refuse for a period of ten (10) days after demand for payment to reimburse Macomb Township for monies paid on behalf of the Country Meadows South Condominiums to Detroit Edison, then Macomb Township may request Detroit Edison to remove the street lights and lighting facilities and any costs that are incurred as a result of said removal shall be the responsibility of the Country Meadows South Condominiums.
7. Macomb Township may avail itself of all legal and equitable remedies to collect any amounts which Macomb Township pays to the Detroit Edison Company on behalf of the Country Meadows South Condominiums and which amounts have not been reimbursed to Macomb Township, together with all costs incurred by Macomb Township to recover such sums including actual attorney fees.
8. The Country Meadows South Condominiums Association on behalf of itself and each of the co-owners of the Country Meadows South Condominiums, agree to hold harmless, indemnify and defend Macomb Township, its trustees, agents and employees from any and all claims, losses, actions, suits, judgments, attorney fees, costs, liabilities and expenses whatsoever which may hereafter be asserted by any person or other entity against Macomb Township for any acts, transactions, or occurrences arising out of the installation and/or operation of street lighting as provided for in this agreement.

TOWNSHIP OF MACOMB COUNTRY MEADOWS SOUTH CONDOMINIUMS

By: _____
Norman J. Snay, Clerk

By: _____
, Its President

By: _____
John D. Brennan, Supervisor

By: _____
Its Vice-President

Dated: _____

Dated: _____

MOTION carried.

16. Request to extend Conditional Variance; Romeo Arm Interceptor in Garfield Road; Jay Dee Contractors, Inc., Petitioner.

Supervisor BRENNAN reviewed the request and stated his recommendation to approve the extension.

Petitioner Present: Mr. Timothy P. Backers of Jay Dee Contractors, Inc. stated his request.

Public Portion: None

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MOTION by OLIVER seconded by DUNN to grant the extension of the original approval of February 28th, 2001; for an additional period of 90 days to expire November 20th, 2001.

MOTION carried.

17. Request for Street Lighting; Altermatt Farms Subdivision No.2.

Supervisor reviewed the history of the request.

Public Portion: None

MOTION by OLIVER seconded by MEERSCHAERT to rescind the Resolution of Creating the Street Lighting Special Assessment District; Altermatt Farms Subdivision No.2, of the meeting of April 11, 2001.

FOR THIS MOTION:	OLIVER, MEERSCHAERT, DUNN, BUCCI, SNAY, MALBURG, BRENNAN.
OPPOSED:	NONE
ABSENT:	NONE

MOTION carried.

Clerk Snay stated his recommendation to schedule a Public Hearing for Street Lighting for Altermatt Farms No. 2 for Wednesday, September 26, 2001 at 7:00 p.m.

MOTION by DUNN seconded by MALBURG to schedule a Public Hearing to create a Special Assessment District for Street Lighting (black lights); Altermatt Farms Subdivision No.2 for Wednesday, September 26th, 2001 at 7:00 p.m.

MOTION carried.

18. Request for Revised Cost Estimate for Card Road Sanitary Sewer; Polarity Land Development, Petitioner.

Supervisor BRENNAN reviewed the request and stated his recommendation to deny based on the recommendation of the Water/Sewer Department.

David Koss, Water/Sewer Department, stated moving the sewer to the opposite side of the road would create numerous problems.

Public Portion: None

MOTION by OLIVER seconded by MALBURG to deny the request.

MOTION carried.

18a. Ventimiglia vs Township of Macomb Zoning Board of Appeals.

Supervisor BRENNAN reviewed the request.

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MOTION by MEERSCHART seconded by MALBURG to authorize the Township Attorney to defend in Ventimiglia vs Township of Macomb Zoning Board of Appeals.

MOTION carried.

18b. Request to authorize Township Attorney to defend Michigan Tax Tribunal appeal for Farmer Jack Supermarkets.

Supervisor BRENNAN reviewed the request.

MOTION by DUNN seconded by MEERSCHART to authorize the Township Attorney to defend in Michigan Tax Tribunal appeal; Farmer Jack Supermarkets.

MOTION carried.

18c. Request to authorize Township Attorney to defend Michigan Tax Tribunal appeal for Hall Road Commerce Center.

Supervisor BRENNAN reviewed the request.

MOTION by DUNN seconded by MEERSCHAERT to authorize the Township Attorney to defend in Michigan Tax Tribunal appeal; Hall Road Commerce Center.

MOTION carried.

18d. Request for Subdivision Model Permits; English Gardens Estates; Northern Macomb Development, Petitioner.

Supervisor BRENNAN stated the departments had reviewed the request and the Building Department had submitted a revised recommendation to deny the permits.

Bob Beckett, Building Official, informed the Board and audience that the Land Division Act states that landscape berms must be complete and approved prior to the issuance of permits.

Petitioner Present: Joe Locricchio of Northern Macomb Development stated that a trunk line is going to be installed through the landscape area in question, and a landscape bond has been posted.

Larry Dloski, Township Attorney, stated that the Board has the authority to issue a variance under the Land Division Act, however, the Land Division Act requires that Planning Commission first review the variance request and make a recommendation to the Township Board.

Board discussion was held regarding what would be the procedure if the Planning Commission did not recommend approval for the variance and the area of landscape still to be completed.

Public Portion: None

MOTION by DUNN seconded by OLIVER to approve the variance to the Land Division Act subject upon the review and approval of the variance by the Planning Commission.

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MOTION carried.

Clerk SNAY asked should the model permit request be granted conditioned upon the variance approved by the Planning Commission.

MOTION by DUNN seconded by OLIVER to amend/revise the motion to grant Model Permits for lot No.s 46, 47, 48 & 49 within the English Gardens Estates Subdivision to Northern Macomb Development contingent upon the posting of the seven thousand five hundred dollar (\$7,500.00) bond per model and the following of the Standard Model Agreement contingent upon the approval of the variance from the Planning Commission.

MOTION carried.

18e. Request to authorize Township Attorney to defend Michigan Tax Tribunal appeal for Occidental Dev. Ltd.

Supervisor BRENNAN reviewed the request.

MOTION by MEERSCHARET seconded by DUNN to authorize the Township Attorney to defend in Michigan Tax Tribunal appeal; Occidental Dev. Ltd.

MOTION carried

BUILDING DEPARTMENT:

19. Request to advance Building Inspectors to Level II after two years of Level I. (Tabled from the meeting of August 8, 2001).

Bob Beckett, Building Official, reviewed the request.

Supervisor BRENNAN stated that the Building Inspectors are not covered under the Collective Bargaining Agreement and he had met with the three Union Representatives who are in agreement that it was an oversight and have no objections to proceeding.

Public Portion: None

MOTION by DUNN seconded by MEERSCHAERT to promote the Level I Building Inspectors after their second year anniversary and or to be retroactive from those Inspectors who's second anniversary has past.

MOTION carried.

20. Request to have four (4) Building Inspectors and Official attend the Building Officials Conference of Michigan Fall Conference.

Bob Beckett, Building Official, reviewed the request the continual education credits will be earned for certification in attending this conference.

Public Portion: None

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MOTION by MEERSCHAERT seconded by MALBURB to authorize four (4) Building Inspectors and the Building Official to attend the Building Officials Conference of Michigan Fall Conference for the total amount of two thousand two hundred fifteen dollars and 00/100 (\$2,215.00) plus meals and mileage.

MOTION carried.

FIRE DEPARTMENT:

21. Request to purchase Fire Prevention Materials.

Raymond Ahonen, Fire Chief, reviewed the request and stated the materials are for Fire Prevention Week for the local schools who visit the stations during the week.

Public Portion: None

MOTION by SNAY seconded by MEERSCHAERT to approve the purchase as presented of Fire Prevention Materials for the total cost of two thousand one hundred fifty one dollars and 60/100 (\$2,151.60) plus shipping contingent upon Mr. Oliver receiving a plastic badge and fire helmet and wears them to the next board meeting.

MOTION carried.

Chief Ahonen, informed the Board of a accident at 21 Mile Road and Heydenreich where a women was in full arrest, Probationary Fire Fighter James Rogers, Fire Fighter John Martin and Ray Yonkowski performed life saving procedures. Chief stated that a current report of her condition is good.

Supervisor BRENNAN expressed what a awesome job the Fire Department is doing.

PARKS AND RECREATION:

22. Request to attend the P.O.W. (Programming Our World) Conference.

Martin Piepenbrok, Parks and Recreation Director, reviewed the request and stated that attending this conference is an excellent opportunity to network with other recreation program professionals from around the country.

Public Portion: None

MOTION by DUNN seconded by OLIVER to authorize the attendance of Tracy Shanley, Recreation Program Coordinator at the P.O.W. (Programming Our World) Conference scheduled for November 27-29, 2001in Columbus, Ohio for the estimated cost of six hundred dollars and 00/100 (\$600.00) or less.

MOTION carried.

WATER/SEWER DEPARTMENT:

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23. Easement Encroachment Agreement, Jeffery J. & Tamara L. Lesnau, 49354 Carles Drive, Macomb MI 48044, Lot 196, Willowood Subdivision III.

David Koss, Water/Sewer Superintendent, stated this was an agreement for a pool and decking and was recommending approval. Mr. Koss also stated that the petitioner understands and accepts the conditions of this agreement.

MOTION by MALBURG seconded by MEERSCHART to grant an Easement Encroachment Agreement for a pool for Lot #196; 49354 Carles Drive in the Willowood Subdivision III.

MOTION carried.

24. Easement Encroachment Agreement, Albert R. & Paula R. Zeoli, 17065 Tower Drive, Macomb MI 48044, Lot 43, Cross Creek Subdivision.

David Koss, Water/Sewer Superintendent, stated this was an agreement for cement/landscaping and was recommending approval. Mr. Koss also stated that the petitioner understands and accepts the conditions of this agreement.

MOTION by MALBURG seconded by BUCCI to grant an Easement Encroachment Agreement for cement/landscaping for Lot #43; 17065 Tower Drive in the Cross Creek Subdivision.

MOTION carried.

- 24a. Easement Encroachment Agreement, Michael J. Bednar and Lisa M. Bednar, 47653 Woodberry Est. Drive, Macomb, MI 48044, Unit 87 within the Woodberry Estates Condominiums.

David Koss, Water/Sewer Superintendent, stated this was an agreement for cement walk and was recommending approval. Mr. Koss also stated that the petitioner understands and accepts the conditions of this agreement.

MOTION by OLIVER seconded by MEERSCHAERT to grant an Easement Encroachment Agreement for a cement walk for Unit #87; 47653 Woodberry Est. Drive, Macomb, MI 48044 within the Woodberry Estates Condominiums.

MOTION carried.

- 24b. Amended Easement Encroachment Agreement, Thomas E. Cangemi and Paula M. Cangemi, 52001 Powderhorn Drive, Macomb, MI 48042, Lot #134 within the Deerwood Subdivision III.

David Koss, Water/Sewer Superintendent, stated this was an amended agreement to include pool decking and was recommending approval. Mr. Koss also stated that the petitioner understands and accepts the conditions of this agreement.

MOTION by MEERSCHAERT seconded by MALBURG to grant an amended Easement Encroachment Agreement to include pool decking for Lot #134; 52001 Powderhorn Drive, Macomb, MI 48042 within the Deerwood Subdivision III.

MOTION carried.

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25. Approval of Change Order No.1, Macomb Township Civic Center Utilities and Roads, MA 98-37.

David Koss, Water/Sewer Superintendent, reviewed the request and stated the change order is the result of added work required by the Road Commission of Macomb County, the removal of storm sewer and adjustments to storm sewer quantities based on field conditions differing from plan.

Public Portion: None

MOTION by DUNN seconded by OLIVER to approve Change Order No.1, Macomb Township Civic Center Utilities and Roads, MA 98-37, Diponio Contracting in the amount of ten thousand sixty five dollars and 10/100 (\$ 10,065.10).

MOTION carried.

26. Approval of Charge Order No.3, Broughton Road North Sanitary Sewer, Salvatore Excavating Co., Inc., MA 98-11.

David Koss, Water/Sewer Superintendent, reviewed the request and stated the change order decrease is the result of work not required.

Informational Only

27. Approval of Pay Certificate No.4 (Final), Broughton Road North Sanitary Sewer, Salvatore Excavating Co., Inc. MA 98-11.

David Koss, Water/Sewer Superintendent, stated his office and the Township Engineers of Spalding DeDecker & Assoc. had reviewed the pay certificate and were recommending approval for this payment.

Public Portion: None

MOTION by DUNN seconded by OLIVER to authorize the payment of Pay Certificate No.4 (Final); Broughton Road North Sanitary Sewer; Salvatore Excavating Co., Inc., MA 98-11 in the amount of sixty two thousand one hundred eighty three dollars and 58/100 (\$62,183.58).

MOTION carried.

28. Request approval to Change Preliminary Grade Certification Approvals.

David Koss, Water/Sewer Superintendent, reviewed the request to consider the Township Engineers of Spalding DeDecker & Assoc. review and approve all "Preliminary Grade Certifications" submitted by builders for new homes within the township would assist the Building Department with approval of sites. Mr. Koss also requested the Board to consider increasing the Building Permit Fee to \$50.00 to compensate for the additional cost of certification review by Spalding DeDecker & Assoc.

Supervisor BRENNAN stated such review will catch any errors in grades at that early stage of approval.

Public Portion: None

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MOTION by MEERSCHAERT seconded by MALBURG to grant authorization to change Preliminary Grade Certifications Approvals and Building Permit Fee as recommended.

MOTION carried.

29. Request Consideration to Sewer Debt Tap Fee's.

David Koss, Water/Sewer Superintendent, stated that in reviewing the request found that the majority of these types of buildings only have one to two sewer taps per building for multiple units. Mr. Koss, asked the Board to consider the "Sewer Debt Tap Fee" to be 50% of the fee per unit in multiple dwellings in residential use.

Public Portion: None

David Lakin, of Spalding DeDecker & Assoc. stated that the sewer use capacity for multiple units are considered single family.

MOTION by DUNN seconded by OLIVER to adopt a Resolution to change prior procedure and policy and adjust the fee schedule.

FOR THIS MOTION: DUNN, OLIVER, MEERSCHART, BUCCI, MALBURG, SNAY, BRENNAN.

OPPOSED: NONE

ABSENT: NONE

RESOLUTION DECLARED ADOPTED.

MOTION carried.

30. Request for a Temporary Cement Batch Plant, Florence Cement Company Inc.
a. Chelsea Park Subdivision
b. Urban Meadows Subdivision
c. Winding Creek Subdivision

David Koss, Water/Sewer Superintendent, reviewed the request and stated his recommendation to approve the Chelsea Park Subdivision site at this time, and deny since Urban Meadows and Winding Creek Subdivisions have not started underground construction.

Petitioner Present: Don Riddell of Florence Cement Company

Public Portion: None

MOTION by OLIVER seconded by DUNN to grant approval of a Temporary Cement Batch Plant, Florence Cement Company Inc. to be located at the Chelsea Park Subdivision for a period of 45 days beginning August 22, 2001 and to expire October 6, 2001 contingent upon the posting of the required bond and meter deposit.

MOTION carried.

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MOTION by DUNN seconded by OLIVER to deny the Urban Meadows Subdivision request based on the recommendation of the Water/Sewer Superintendent.

MOTION carried.

MOTION by DUNN seconded by OLIVER to deny the Winding Creek Subdivision request based on the recommendation of the Water/Sewer Superintendent.

MOTION carried.

31. Approval of Purchase Requisitions:
a. SLC Meter Service

David Koss, Water/Sewer Superintendent, reviewed the purchase requisition and stated his recommendation to approve.

Public Portion: None

MOTION by OLIVER seconded by MALBURG to authorize the payment of the purchase requisition to SLC Meter Service for the total amount of two thousand nine hundred ninety seven dollars and 28/100 (\$2,997.28).

MOTION carried.

BOARD COMMENTS:

32. Supervisor's Comments
a. Request for Family Medical Leave Act.

Supervisor BRENNAN reviewed the request submitted from Phyllis Quasarano from the Building Department.

MOTION by OLIVER seconded by MEERSCHAERT to grant the Family Medical Leave Act request as submitted for Phyllis Quasarano of the Building Department.

MOTION carried.

33. Clerk's Comments

None

34. Treasurer's Comments

None

35. Trustee's Comments

None

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Larry Dloski, Township Attorney, informed the Board that the Michigan Court of Appeals recently decided a case which held that a municipality has absolutely no jurisdiction over the zoning and site plan construction of a public school in Michigan. Mr. Dloski stated that based on that decision a public school can build in any zoning district they want, they don't have to submit any site plans and with no municipal review whatsoever.

MOTION by MEERSCHAERT seconded by OLIVER to adjourn into Executive Session at 8:56 p.m.

MOTION carried.

Meeting reconvened at 9:16 p.m.

EXECUTIVE SESSION:

36. Grand Sakwa v Macomb Township

Tabled

37. Land Acquisition (Tabled from the meeting of August 8, 2001).

Tabled

37a. Thomas Maliszewski v Macomb Township.

MOTION by SNAY seconded by DUNN to settle the Maliszewski litigation.

FOR THIS MOTION: SNAY, DUNN, BUCCI, OLIVER, MEERSCHAERT, MALBURG, BRENNAN.

OPPOSED: NONE

ABSENT: NONE

ADJOURNMENT

MOTION by MEERSCHAERT seconded by OLIVER to adjourn the meeting at 9:17 p.m.

MOTION carried.

Respectfully submitted,

John D. Brennan, Supervisor

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Norman J. Snay, Clerk

Eva M. Mayer, Recording Secretary

EMM

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